

Serial No. 09/994,644
Response dated June 15, 2005
Reply to Office Action of March 15, 2005

Attorney Docket No. PF02047NA

REMARKS/ARGUMENTS

Claims 1 and 3 through 22 remain in this application. Claim 2 has been cancelled without prejudice or disclaimer. Claims 1, 9 and 13 have been amended.

Claims 1-5, 9, 12-17 and 21 are rejected under 35 U.S.C. §102(b) as being unpatentable over U.S. Patent No. 6,049,821 to Theriault, et al. ("Theriault, et al. patent"). Claims 6, 8, 10, 11, 18-20 and 22 are rejected under 35 U.S.C. §103(a) as being unpatentable over the Theriault, et al. patent in view of U.S. Patent No. 5,423,034 to Cohen-Levy, et al. ("Cohen-Levy, et al. patent"). Although the first page of the above Office Action indicates that claim 7 is rejected, the Office Action does not indicate any statutory basis for rejecting claim 7.

Independent claims 1, 9 and 13 are hereby amended to include certain limitations of canceled claim 2. In particular, claim 1 as amended provides, *inter alia*, evaluating the file to determine whether network resources are available to transport said file, and claims 9 and 13 provide, *inter alia*, similar language. Support for the above language is also provided at page 12, lines 1 through 3, of the specification.

In contrast, the Theriault, et al. patent describes a method of accessing and retrieving information in a networked data communications system via a proxy. It does not describe or suggest evaluating the file to determine whether network resources are available to transport said file, as required by claims 1, 9 and 13. The Theriault, et al. patent only mentions that it is advantageous to be able to select filtering services which reduce data transfer charges or avoid large file transfers i.e. only the positive effect of employing filters is being suggested and not the

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step of assessment of network resources available to transport a file itself. Likewise, the Cohen-Levy, et al. patent does not describe or suggest evaluating the file to determine whether network resources are available to transport said file, as required by claims 1, 9 and 13. Therefore claims 1, 9 and 13 distinguish patentably from the Theriault, et al. patent, the Cohen-Levy, et al. patent, and any combination of these patents.

Claims 3 through 8, 10 through 12 and 14 through 22 depend from and include all limitations of independent claims 1, 9 and 13 as amended. Therefore 3 through 8, 10 through 12 and 14 through 22 distinguish patentably from the Theriault, et al. patent, the Cohen-Levy, et al. patent, and any combination of these patents for the reasons stated above for claims 1, 9 and 13.

In view of the above, reconsideration and withdrawal of the 35 U.S.C. §102(b) and 35 U.S.C. §103(a) rejections of claims 1 and 3 through 22 are respectfully requested.

CONCLUSION

No amendment made was related to the statutory requirements of patentability unless expressly stated herein. Also, no amendment made was for the purpose of narrowing the scope of any claim, unless Applicants have argued herein that such amendment was made to distinguish over a particular reference or combination of references.

The Commissioner is hereby authorized to deduct any additional fees arising as a result of this response, including any fees for Extensions of Time, or any other communication from or to credit any overpayments to Deposit Account No. 50-2117.

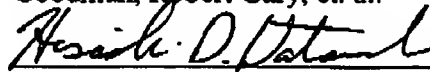
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It is submitted that the claims clearly define the invention, are supported by the specification and drawings, and are in a condition for allowance. Applicants respectfully request that a timely Notice of Allowance be issued in this case. Should the Examiner have any questions or concerns that may expedite prosecution of the present application, the Examiner is encouraged to telephone the undersigned.

Please forward all correspondence to:
Motorola, Inc.
Law Department (HDW)
600 North US Highway 45, AS437
Libertyville, IL 60048

Respectfully submitted,
Goodman, Robert Gary, et. al.



Hisashi D. Watanabe
Attorney for Applicant(s)
Registration No. 37,465
Telephone: (847) 523-2322
Facsimile: (847) 523-2350

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